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IN THE HIGH COURT OF JUDICATURE AT BILASPUR(CHHATTISGARH)

WRIT PETITION NO. 3135 2003

PETITIONER : Smt. Subhadra W/o. Late Shankar Rao
Aged about 55 years
Singarpur, Vill & P. O. – Kirandul
Tahsil & Distt – Dantewada (C.G.)

P. R. No. 2396/03
Presented by Shri S.C. Verma
dated 16.09.03

VERSUS

RESPONDENTS : 1) The Estate Officer East Coast Railway Company, waltair
2) Indian Railway, through the Reporting officer, Asst. Engineer, Kirandul, East Coast Railway, Waltair Division, Vishakhapattanam

WRIT PETITION UNDER ARTICLE 226 & 227 OF THE CONSTITUTION OF INDIA FOR GRANT OF WRIT NATURE OF MANDAMUS OR CERCIORARI OR ANY WRIT OR DIRECTION OF THE LIKE NATAURE

(23)

XI-HC—78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक W.P.3135/ सन् 2003

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश
	15/11/2003 Shri S.C. Verma, learned counsel for the petitioner. Heard. The petitioner has filed this writ petition under Articles 226/227 of the Constitution of India against the order of respondent no.1 – The Estate Officer, East-Coast Railway Company, Waltair, dated 25/08/2003 passed in case no. E.C/26/2003 by which the respondent no.1 has issued an order to the petitioner to vacate the land of respondent no.2. The case of the petitioner is that this order has been passed under sub-section (1) of Section 5 of the Public Premises (Eviction of Unauthorized Occupants) Act, 1971 (for short, "the Act"). Against this order, the petitioner has right to file an appeal before the District Judge as per the provisions of Section 9 of the Act. Learned counsel for the petitioner submits that even though the petitioner has got an alternative remedy to file an appeal before the District Judge, since large number of persons are occupying these quarters and the question raised by the petitioner that she is residing in the house much before the date when this house was transferred to respondent no.2, has not been decided. Therefore, the petition under Articles 226/227 of the Constitution of India is maintainable.	

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

(24)

आदेश पत्रक

मामला क्रमांक W.P.3135/ सन् 2003

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित -2-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

I do not find any merit in the arguments of learned counsel for the petitioner. Section 9 of the Act provides that an appeal shall lie from every order of the Estate Officer made in respect of any public premises " under Section 5 of Section 5-B or Section 5-C or Section 7 " to an appellate officer, who shall be the District Judge of the district in which the public premises are situate or such other judicial officer in that district of not less than ten years as District Judge may designate in this behalf.

Since there is a clear cut provision, the petitioner is entitled to file an appeal before the District Judge under Section 9 of the Act. As there is an alternative remedy available to the petitioner for redressal of her grievance, I am of the opinion that the petitioner cannot invoke extraordinary jurisdiction of this Court under Article 226/227 of the Constitution of India. This can be invoked only in the case where no alternative remedy is available to the petitioner. Therefore, the petition deserves to be dismissed and is dismissed. However, the petitioner is at liberty to file an appeal before the District Judge.

Learned counsel for the petitioner submits that 30 days' time may be granted to the petitioner to file an appeal before the District Judger and meanwhile the petitioner should not be evicted. Since

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

25

आदेश पत्रक

मामला क्रमांक W.P.3135/ सन् 2003

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित —3—	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	the petition is dismissed on account of an alternative remedy, therefore, such relief cannot be granted.	Prayer is rejected. Sd/- L.C.BHADOO Judge

[पीछे देखिये